

Second Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO

DRAFT  
10.3.07

**BILL 2**

**Working Group Recommendation**

LLS NO. 08-0285.01 Ed DeCecco

**INTERIM COMMITTEE BILL**

**Interim Committee on Allocation  
of Severance Tax and Federal Mineral Lease Revenues**

**SHORT TITLE:** "Employee Residence Reporting Process"

**A BILL FOR AN ACT**

101 **CONCERNING THE EMPLOYEE RESIDENCE REPORTING PROCESS USED**  
102 **TO CALCULATE THE DISTRIBUTION PAYMENTS TO LOCAL**  
103 **GOVERNMENTS FROM THE LOCAL GOVERNMENT SEVERANCE**  
104 **TAX FUND.**

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

**Interim Committee on Allocation of Severance Tax and Federal Mineral Lease Revenues.** Makes the following changes to the employee residence reporting process used to calculate the distribution

*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

payments to local governments from the local government severance tax fund:

- Requires the report to be filed with the department of local affairs (department) instead of the department of revenue.
  - Requires every party that registers exempt production, withholds income, or files a severance tax return to file a report instead of every producer.
  - Eliminates the requirement that a form be sent to every producer 90 days prior to the end of each fiscal year.
  - Authorizes the department to establish the format of the report.
  - Eliminates the discretion to vary the form of the report.
  - Repeals the definitions of "producer of crude oil, natural gas, or oil and gas" and "related facility".
  - Modifies the definition of "employee of a crude oil, natural gas, or oil and gas operation".
  - Establishes the procedures and consequences for a party that fails to file a report.
  - Relocates provisions.
- Makes conforming amendments.

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*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** The introductory portion to 39-29-103 (1), Colorado Revised Statutes, is amended to read:

**39-29-103. Tax on severance of metallic minerals.** (1) In addition to any other tax, there shall be levied, collected, and paid for each taxable year a tax upon the severance from the earth in this state of all metallic minerals as to all such severance occurring on and after January 1, 1978. Such tax shall be levied against every mining operation engaged in the severance of metallic minerals and shall be based upon the gross income of such mining operation. ~~Nothing in this subsection (1) shall exempt a company from submitting a production employee report as required by section 39-29-110 (1) (d) (i).~~ The rate of the tax for all metallic minerals shall be as follows:

**SECTION 2.** 39-29-104 (1), Colorado Revised Statutes, is

1 amended to read:

2           **39-29-104. Tax on severance of molybdenum ore.** (1) In  
3 addition to any other tax, there shall be levied, collected, and paid for  
4 each calendar quarter a tax upon the severance of all molybdenum ore in  
5 this state. Such tax shall be levied against every person engaged in the  
6 severance of molybdenum ore. The rate of the tax for each calendar  
7 quarter shall be five cents per ton of molybdenum ore. On and after July  
8 1, 1999, no tax provided for in this section shall be imposed on the first  
9 six hundred twenty-five thousand tons of molybdenum ore produced each  
10 quarter of the taxable year. ~~However, nothing in this subsection (1) shall~~  
11 ~~exempt a company from submitting a production employee report as~~  
12 ~~required by section 39-29-110 (1) (d) (I).~~

13           **SECTION 3.** 39-29-105 (1) (b), Colorado Revised Statutes, is  
14 amended to read:

15           **39-29-105. Tax on severance of oil and gas.** (1) (b) In addition  
16 to any other tax, there shall be levied, collected, and paid for each taxable  
17 year commencing on or after January 1, 2000, a tax upon the gross  
18 income attributable to the sale of oil and gas severed from the earth in this  
19 state; except that oil produced from any wells that produce fifteen barrels  
20 per day or less of oil and gas produced from wells that produce ninety  
21 thousand cubic feet or less of gas per day for the average of all producing  
22 days for such oil or gas production during the taxable year shall be  
23 exempt from the tax. ~~Nothing in this paragraph (b) shall exempt a~~  
24 ~~producer of oil and gas from submitting a production employee report as~~  
25 ~~required by section 39-29-110 (1) (d) (I).~~ The tax for oil and gas shall be  
26 at the following rates of the gross income:

27           **SECTION 4.** 39-29-106 (2) (b), Colorado Revised Statutes, is

1 amended to read:

2 **39-29-106. Tax on the severance of coal.** (2) (b) On and after  
3 July 1, 1999, no tax provided for in subsection (1) of this section shall be  
4 imposed on the first three hundred thousand tons of coal produced in each  
5 quarter of the taxable year. ~~However, nothing in this paragraph (b) shall~~  
6 ~~exempt a company from submitting a production employee report as~~  
7 ~~required by section 39-29-110 (1) (d) (I).~~

8 **SECTION 5.** 39-29-110 (1) (d), (1) (e), and (1) (f), Colorado  
9 Revised Statutes, are amended to read:

10 **39-29-110. Local government severance tax fund - creation -**  
11 **administration - definitions.** (1) (d) (I) (A) Ninety days prior to the  
12 end of each fiscal year, FOR EACH TAXABLE YEAR THAT THIS  
13 SUB-SUBPARAGRAPH(A) APPLIES, the executive director of the department  
14 of revenue shall send every producer who is subject to the severance tax  
15 and whose payment is subject to the distribution formula provided in this  
16 subsection (1) a form on which the producer shall submit a report to the  
17 department of revenue indicating the following: The name and address  
18 of the producer, the name of the mine, related facility, or operation, the  
19 names of the municipalities or counties in which its employees maintain  
20 their actual residences as given by the employees, giving the number of  
21 employees for each such municipality or unincorporated area of each such  
22 county, and the total number of employees of the mine or related facility  
23 or crude oil, natural gas, or oil and gas operation. The producer may use  
24 and submit any other report form in lieu of the state form sent by the  
25 executive director of the department of revenue that contains the same  
26 information as prescribed in the state form. The report shall be due April  
27 30 of each year. The executive director of the department of revenue

1 shall submit a copy of the report required by this paragraph (d) to the  
2 executive director of the department of local affairs. In the case of failure  
3 of any producer to submit the report on or before the date required by this  
4 paragraph (d) to the department of revenue, a written notice shall be sent  
5 to the producer by the department of revenue by first-class mail as set  
6 forth in section 39-21-105.5 stating that the producer has failed to submit  
7 a copy of the report required by this paragraph (d) and informing the  
8 producer of the penalty provision contained in this paragraph (d). If the  
9 producer fails within forty-five days after receipt of the written notice to  
10 submit the required report, there shall be levied and collected a penalty  
11 for the failure in the amount of fifty dollars for each day, or portion  
12 thereof, during which the failure continues. Any moneys and interest  
13 collected under this paragraph (d) shall be added to the fifteen percent of  
14 gross receipts from the local government severance tax fund and  
15 distributed to counties or municipalities in the manner prescribed by  
16 paragraph (c) of this subsection (1). Moneys distributed from the local  
17 government severance tax fund pursuant to paragraph (c) of this  
18 subsection (1) shall be distributed no later than August 31 of each year.  
19 Any producer not liable for severance tax under this section shall not be  
20 required to submit a report under this subsection (1). THIS  
21 SUB-SUBPARAGRAPH (A) SHALL APPLY TO ANY REPORT FOR A TAXABLE  
22 YEAR COMMENCING PRIOR TO JANUARY 1, 2008.

23 (B) EVERY PARTY THAT REGISTERS EXEMPT PRODUCTION WITH  
24 THE DEPARTMENT OF REVENUE, WITHHOLDS INCOME PURSUANT TO  
25 SECTION 39-29-111, OR FILES A RETURN PURSUANT TO SECTION 39-29-112  
26 SHALL SUBMIT A REPORT TO THE DEPARTMENT OF LOCAL AFFAIRS IN A  
27 FORMAT SPECIFIED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT

1 INDICATING THE FOLLOWING: THE NAME AND ADDRESS OF THE PARTY;  
2 THE NAME OF THE MINE, RELATED FACILITY, OR OPERATION; THE NAMES  
3 OF THE MUNICIPALITIES OR COUNTIES IN WHICH THE PARTY'S EMPLOYEES  
4 MAINTAIN THEIR ACTUAL RESIDENCES AS GIVEN BY THE EMPLOYEES,  
5 GIVING THE NUMBER OF THE EMPLOYEES FOR EACH SUCH MUNICIPALITY OR  
6 UNINCORPORATED AREA OF EACH SUCH COUNTY; AND THE TOTAL NUMBER  
7 OF THE EMPLOYEES OF THE MINE OR RELATED FACILITY OR CRUDE OIL,  
8 NATURAL GAS, OR OIL AND GAS OPERATION. THE REPORT SHALL BE DUE  
9 APRIL 30 OF EACH YEAR. THIS SUB-SUBPARAGRAPH (B) SHALL APPLY TO  
10 ANY REPORT FOR A TAXABLE YEAR COMMENCING ON OR AFTER JANUARY  
11 1, 2008.

12 (II) (A) ~~For purposes of this subsection (1), a "producer of crude~~  
13 ~~oil, natural gas, or oil and gas" means any person who files a crude oil,~~  
14 ~~natural gas, or oil and gas production report with the oil and gas~~  
15 ~~conservation commission pursuant to article 60 of title 34, C.R.S. A~~  
16 ~~producer shall include a producer-operator or a unit operator. A list of~~  
17 ~~such producers, together with their addresses, who operated in the state~~  
18 ~~during the previous calendar year shall be furnished to the department of~~  
19 ~~revenue by said oil and gas conservation commission no later than~~  
20 ~~January 31 of each year.~~

21 (B) For purposes of this paragraph (d), an "employee of a crude  
22 oil, natural gas, or oil and gas operation" means any individual who is  
23 employed and compensated ~~on a full-time basis by the producer of crude~~  
24 ~~oil, natural gas, or oil and gas, as defined in sub-subparagraph (A) of this~~  
25 ~~subparagraph (H)~~ FOR AT LEAST FOUR HUNDRED HOURS OF WORK IN THE  
26 SIX MONTHS PRIOR TO DECEMBER 31 OF THE REPORTING YEAR BY A  
27 PRODUCER, INTEREST OWNER, OR PARTY WHO CONTRACTS WITH A

1 PRODUCER for the purposes of extracting such crude oil, natural gas, or oil  
2 and gas out of the ground and at point of first sale. ~~Such employee may~~  
3 ~~include any individual who is employed by any company or person who~~  
4 ~~contracts with such producer for purposes of extracting such crude oil,~~  
5 ~~natural gas, or oil and gas out of the ground and at point of first sale.~~  
6 ~~"Individual who is employed on a full-time basis" means an employee~~  
7 ~~who has worked for the producer or contractor during the six-month~~  
8 ~~period next preceding the last day of the annual reporting period.~~  
9 ~~"Employee" does not mean any employee of any exploration or drilling~~  
10 ~~crew, any employee of any well service company, or any other contractor~~  
11 ~~or person who may work in any such operation on a periodic or temporary~~  
12 ~~basis and who is employed by companies or entities other than the~~  
13 ~~producer.~~

14 (C) IN THE CASE OF FAILURE OF ANY PARTY TO SUBMIT THE REPORT  
15 REQUIRED PURSUANT TO SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I)  
16 OF THIS PARAGRAPH (d) ON OR BEFORE THE REQUIRED DATE TO THE  
17 DEPARTMENT OF LOCAL AFFAIRS, A WRITTEN NOTICE SHALL BE SENT TO  
18 THE PARTY BY THE DEPARTMENT OF LOCAL AFFAIRS BY FIRST-CLASS MAIL  
19 STATING THAT THE PARTY HAS FAILED TO SUBMIT A COPY OF THE REPORT  
20 REQUIRED BY THIS SUB-SUBPARAGRAPH (C) AND INFORMING THE PARTY  
21 OF THE PENALTY PROVISION CONTAINED IN THIS SUB-SUBPARAGRAPH (C).  
22 IF THE PARTY FAILS WITHIN FORTY-FIVE DAYS AFTER RECEIPT OF THE  
23 WRITTEN NOTICE TO SUBMIT THE REQUIRED REPORT, THERE SHALL BE  
24 LEVIED AND COLLECTED A PENALTY FOR THE FAILURE IN THE AMOUNT OF  
25 FIFTY DOLLARS FOR EACH DAY, OR PORTION THEREOF, DURING WHICH THE  
26 FAILURE CONTINUES. ANY MONEYS AND INTEREST COLLECTED UNDER  
27 THIS SUB-SUBPARAGRAPH (C) SHALL BE ADDED TO THE THIRTY PERCENT

1 OF GROSS RECEIPTS FROM THE LOCAL GOVERNMENT SEVERANCE TAX FUND  
2 AND DISTRIBUTED TO COUNTIES OR MUNICIPALITIES IN THE MANNER  
3 PRESCRIBED BY PARAGRAPH (c.5) OF THIS SUBSECTION (1). THE NOTICE  
4 REQUIRED PURSUANT TO THIS SUB-SUBPARAGRAPH (C) SHALL BE SENT IN  
5 ACCORDANCE WITH THE PROVISIONS OF SECTION 39-21-105.5, AND THE  
6 PROVISIONS OF THAT SECTION SHALL OTHERWISE APPLY TO THE NOTICE.

7 (III) MONEYS DISTRIBUTED FROM THE LOCAL GOVERNMENT  
8 SEVERANCE TAX FUND PURSUANT TO PARAGRAPH (c.5) OF THIS  
9 SUBSECTION (1) SHALL BE DISTRIBUTED NO LATER THAN AUGUST 31 OF  
10 EACH YEAR. COUNTIES AND MUNICIPALITIES SHALL UTILIZE REVENUES  
11 RECEIVED UNDER THIS SUBSECTION (1) ONLY FOR THE PURPOSES OF  
12 CAPITAL EXPENSES AND GENERAL OPERATING EXPENSES.

13 (e) ~~Counties and municipalities shall utilize revenues received~~  
14 ~~under this subsection (1) only for the purposes of capital expenses and~~  
15 ~~general operating expenses.~~

16 (f) ~~For the purpose of this subsection (1), "related facility" means~~  
17 ~~an oil shale retorting and upgrading facility.~~

18 **SECTION 6. Effective date.** This act shall take effect July 1,  
19 2008.

20 **SECTION 7. Safety clause.** The general assembly hereby finds,  
21 determines, and declares that this act is necessary for the immediate  
22 preservation of the public peace, health, and safety.